

REMARKS/ARGUMENTS

Status of the Claims

Claims 1-11 are pending in the application. Claim 12 has been cancelled. Applicants assert that no new matter is presented by these amendments and respectfully request entry of the same.

Rejections under 35 U.S.C. § 102 should be withdrawn.

Claim 12 is rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Yu et al (U.S. Patent Application 20010036632). Applicant respectfully disagrees with the Examiner. However, claim 12 has been cancelled. Therefore, the rejection of claim 12 under 35 U.S.C. 102(b) has been obviated.

Rejections under 35 U.S.C. § 103 should be withdrawn.

Claims 1, 2, 5-11 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Lipshutz (U.S. Application Publication No. 2002/0048749) in view of Bao (USP 6,251,601).

Applicant respectfully disagrees. The rejected claims are directed to a method for prenatal diagnosis comprising: obtaining a prenatal nucleic acid sample; genotyping at least 5000 SNPs in said sample and analyzing the genotypes to determine chromosomal abnormalities. Bao et al discusses a multi-color comparative hybridization assay method for the detection of both gene expression and chromosomal abnormalities in a tissue sample (see col. 2, line 66) rather than the genotyping of SNPs in a sample for detecting chromosomal abnormalities. Applicant respectfully submits that the cited references do not suggest the combination of the references. In fact, Bao et al, teaches away by directing the artisans to using target elements in an array rather than SNP genotyping for detecting chromosomal abnormalities. Applicant submits that it would not have been obvious to a person of the skill in the art to combine and/or modify the references to make the claimed invention. Therefore, a prima facie case of obviousness has not been established. Applicant respectfully requests withdrawal of the rejection of claims 1, 2, 5-11 under 35 U.S.C. 103(a).

Claims 3 and 4 are rejected under 35 U.S.C 103(a) as allegedly being unpatentable over Lipshutz in view of Bao and further in view of Komman (USP 6,733,967). Applicant respectfully disagrees. As indicated above, Bao et al, does not disclose genotyping of SNPs in a sample and therefore it would not have been obvious to a person skill in the art to combine and/or modify the references to make the claimed invention of independent claim 1. Because claims 3 and 4 dependent of independent claim 1, and since claim1 is not obvious, therefore, claims 3 and 4 are not obvious. Withdrawal of the rejection of claims 3 and 4 under 35 U.S.C. 103(a) is respectfully requested.

Claim 12 is rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Lipshutz in view of Bao and further in view of Ahern H. Applicant respectfully disagrees. However, since claim 12 has been cancelled, the rejection of claim 12 under 35 U.S.C. 103(a) has been obviated.

CONCLUSION

For these reasons, Applicants believe all pending claims are now in condition for allowance. If the Examiner has any questions pertaining to this application or feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at (408) 731-5000.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account 01-0431.

Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

Date: 05/04/2006

By: /Leticia R. Block/
Leticia R. Block - Reg. 50,167

Customer No.: 22886
Affymetrix, Inc.
Tel: 408/731-5000
Fax: 408/731-5392